

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.181 OF 2025

Arbaz Jamaluddin Khan

.. Applicant

Versus

The State of Maharashtra

.. Respondent

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- Mr. Pankaj Dwivedi, Advocate for Applicant.
- Mr. Dinesh J. Haldankar, APP for Respondent – State of Maharashtra.
- Mr. Dinesh Gurjar, API, Meghwadi Police Station (Mobile No.9657068810).

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CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 21, 2025

P.C.:

- 1.** Heard Mr. Dwivedi, learned Advocate for Applicant and Mr. Haldankar, learned APP for Respondent – State of Maharashtra.
- 2.** This is an Application under Section 438 of Code of Criminal Procedure, 1973 (for short '**Cr.P.C.**') seeking Anticipatory Bail.
- 3.** In the present case, Applicant is husband who has been indicted under Section 498-A of Indian Penal Code, 1860 (for short '**IPC**'). Intriguingly Section 498 of the Muslim Women (Protection of Rights on Marriage) Act, 2019 (for short '**the said Act**') has been applied. Mr. Dwivedi would draw my attention to the previous First Information Report (for short '**FIR**') filed by Complainant under Sections 498-A in which Applicant has been granted Anticipatory Bail.

4. It is seen that parties were married on 18.12.2017 and some time in 2019, the first Complaint was filed. Pursuant thereto Complainant has filed proceedings under the Protection of Women from Domestic Violence Act, 2005 (for short '**D.V.Act**'). But in the said proceedings, the parties reconciled their differences and filed Consent Terms. Thereafter on 20.07.2023, the parties were blessed with a son. However, the Complainant has filed a second complaint.

5. Mr. Haldankar has vehemently submitted that the reason for filing the second complaint was specifically in view of the fact that Applicant uttered the three words pertaining to triple talaq and also gave a *whatsapp* message with those three words to the Complainant. That apart, Mr. Haldankar would vehemently submit that Applicant would gave threats to the Complainant and demanded an amount of Rs.5,00,000/- from her which compelled her to file the second complaint. He would submit that Applicant's mobile phone has not been deposited and Investigating Officer would like to retrieve these messages in order to build a water tight case against Applicant.

6. *Prima facie*, perusal of the record shows that second complaint would not have been maintainable simply because of filing of earlier complaint but in view of the addition of Section 4 of the said Act, the complaint has been registered. It is seen that proceedings under the D.V. Act were also filed by Applicant but thereafter parties

reconciled and filed Consent Terms in the Court. In the present case, it is seen that there is no element of force or abuse on the Complainant by Applicant. In that view of the matter, no custodial interrogation of Applicant is required in the present crime.

7. In that view of the matter, Applicant is granted pre-arrest bail on the following terms and conditions:-

ORDER

- (i) In the event of the arrest, the Applicant be enlarged on bail on furnishing P. R. Bond in the sum of Rs. 10,000/- with one or two sureties in the like amount;
- (ii) Applicant shall not tamper or attempt to influence the complainant, witnesses or any person concerned with the case;
- (iii) Applicant shall attend the Police Station on the first Monday of every month between 10.00 a. m. and 12.00 noon until the Charge-sheet is filed and as and when called for by the investigating officer thereafter;
- (iv) Applicant shall inform his latest place of residence and mobile contact number

immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

- (v) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the Applicant's bail.

8. It is made clear that the observations made herein are *prima facie* and are confined to this Application and the learned Judge to decide the case on its own merits, uninfluenced by the observations made herein.

9. Application is allowed in the aforesaid terms and is accordingly disposed of.

10. All concerned to act on the authenticated copy of this order.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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